

STATE OF MARYLAND
MARYLAND DEPARTMENT OF THE ENVIRONMENT
Robert M. Summers, Ph. D., Secretary

BILL NO: House Bill 888

COMMITTEE: Environmental Matters

POSITION: Oppose

TITLE: Environment – Reduction in Lead Risk in Housing – Applicability and Registration Requirements

BILL ANALYSIS:

This legislation would repeal the expansion of the definition of Affected Property with respect to residential rental properties constructed between January 1, 1966 and December 31, 1977 (“1966 – 1977 properties”). As a result, these properties would not be required to meet any lead risk reduction standard after January 1, 2015. The bill would require owners of 1966 – 1977 properties to register annually and pay fees of \$30 per unit, up to 750 units, but the properties would otherwise be unregulated.

POSITION AND RATIONALE:

The Department opposes House Bill 888. This bill would limit the scope of the Department’s authority to regulate lead-based paint hazards in residential rental properties by changing the definition of “Affected Property.” Currently, the Department regulates the registration and inspection of all pre-1950 constructed residential rental properties. On January 1, 2015, the definition of Affected Property will change, in accordance with legislation passed in 2012, to include all residential rental properties constructed prior to 1978. This bill would limit the scope of the 2012 legislation by redefining Affected Property as all pre-1966 rentals. This bill also creates a new category of properties – those constructed between January 1, 1966 and December 31, 1977 (“Semi-Affected Properties”) – that must be registered with the Department, but remain otherwise unregulated.

In 2011, the General Assembly passed legislation requiring MDE to convene a Summer Workgroup to draft a road map for the lead program in Maryland. The elements of the Summer Study were discussed in the 2012 Session and resulted in House Bill 644 entitled *Environment – Reducing the Incidence of Lead Poisoning*, enacted into law (Chapter 387, Acts of 2012). One of the key elements was the inclusion of rental properties built between 1950 and 1978. This expansion of the regulated universe is to take effect January 1, 2015 to allow property owners time to obtain lead free certification or begin making their properties ready for the new requirement.

The 2012 Childhood Blood Lead Surveillance Annual Report (“Report”) identified 236 new confirmed childhood lead poisoning cases in Maryland. Of these, 38 children with elevated blood levels of 10 micrograms per deciliter (µg/dL) or above in post-1949 rental units. In addition, the Report shows 1,792 children with blood lead levels between 5 and 9 µg/dL, which is the new reference level approved by federal Centers for Disease Control (CDC).

The addition of the pre-1978 units in 2012 was also made to make the Maryland law consistent with federal law and laws in other states with similar programs. Lead was present in paint until the 1978 federal ban. The initial 1994 Maryland law used the pre-1950 date since this was the year that lead paint was banned in Baltimore City. However, lead containing paint continued to be sold until 1978 in counties in Maryland, which is where most post-1950 construction of homes occurred. This bill

creates a new dividing line for the presence of lead-based paint in construction of rental dwellings in the State, making this bill difficult to enforce.

Last year, a similar bill did not pass the Environmental Matters Committee. House Bill 944 entitled *Environment – Reduction of Lead Risk in Housing – Applicability and Registration Requirements*, would have repealed the application of the lead inspection requirements in the Reduction of Lead Risk in Housing Law for owners of residential rental property built between 1950 and 1978 and, instead, subjected property owners to registration requirements.

There are other issues with the bill that, even if corrected, would not change the Department's overall position. For example, the bill would provide for civil penalties of up to triple the amount of unpaid registration fees, and double the amount of unpaid registration renewal fees, for an owner's failure to register or renew the registration for a Semi-Affected Property. However, because Semi-Affected Properties are not within the definition of Affected Properties, the penalty provisions providing up to \$20 per day in § 6-849 (a) of the Environment Article would not apply.

Maryland has made significant progress towards eliminating childhood lead poisoning, with only 236 confirmed cases of childhood lead poisoning in Maryland in 2012. This bill would limit the scope of the Department's authority to regulate lead hazards in rental properties, and is contrary to legislation approved by the General Assembly in 2012. The Department believes that the regulation of the entire universe of post-1950 rental properties through 1977 will continue the downward trend and progress toward the goal of eliminating childhood lead poisoning in Maryland.

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